

291 s. 14; 1969 c. 154 s. 377; 1969 c. 158 ss. 45, 91, 105, 107; 1969 c. 331 s. 32; Stats. 1969 s. 41.21.

41.22 History: 1943 c. 175; Stats. 1943 s. 66.90 (23); 1947 c. 206, 362; Stats. 1947 s. 66.918; 1951 c. 722; 1953 c. 246; 1957 c. 60; 1959 c. 211, 271; 1965 c. 33, 433, 470; 1965 c. 625 s. 32; 1967 c. 291 s. 14; 1969 c. 154 ss. 197, 377, 378; 1969 c. 158 ss. 91, 107; 1969 c. 331 s. 33; Stats. 1969 s. 41.22.

See note to 41.11, citing State ex rel. Morse v. Christianson, 262 W 262, 55 NW (2d) 20.

Payments made under the fund may not be assigned prior to accrual, but once recognized they are subject to legal process in relation to transactions occurring after recognition. Ponath v. Hedrick, 22 W (2d) 382, 126 NW (2d) 28.

It was not error to refuse to quash a writ of certiorari which named the retirement fund as respondent rather than the trustees of the fund on the ground that this was a misnomer rather than a misdirection. State ex rel. Casper v. Board of Trustees, 30 W (2d) 170, 140 NW (2d) 301.

Where statutory remedies are provided, the procedure prescribed by the statute must be strictly construed. State ex rel. Conn v. Board of Trustees, 44 W (2d) 479, 171 NW (2d) 418.

41.30 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.30.

Editor's Note: See s. 23.14 in the 1967 statutes and in Wis. Annotations 1960 for the prior statute now numbered ss. 41.30 to 41.41.

41.31 History: 1969 c. 154 ss. 125m, 378; 1969 c. 158 s. 46; 1969 c. 245 ss. 9, 14 (1); Stats. 1969 s. 41.31.

41.32 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.32.

41.33 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.33.

41.34 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.34.

41.35 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.35.

41.36 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.36.

41.37 History: 1969 c. 158 s. 46; 1969 c. 256; 1969 c. 392 ss. 13, 23; Stats. 1969 s. 41.37.

Under 23.14 (9), Stats. 1943, a conservation warden's pension is fixed at a certain per cent of his monthly salary at the date of retirement, and for purposes of computing such salary there should be included the monthly so-called "cost of living" bonus. The amount of the pension is dependent upon total salary received at date of retirement and changes in salary range of a particular classification subsequent to retirement date do not affect the amount of the pension. 33 Atty. Gen. 20.

Time spent in the armed forces by a conservation warden may not be counted in computing his years of service for retirement purposes under 23.14. 37 Atty. Gen. 29.

41.38 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.38.

41.39 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.39.

41.40 History: 1969 c. 158 s. 46; Stats. 1969 s. 41.40.

41.41 History: 1969 c. 154 ss. 126, 378; 1969 c. 158 s. 46; Stats. 1969 s. 41.41.

41.42 History: 1969 c. 154 ss. 127, 378; Stats. 1969 s. 41.42.

41.50 History: 1959 c. 511; Stats. 1959 s. 42.65; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 158 s. 76; 1969 c. 276 s. 598 (1); Stats. 1969 s. 41.50.

41.51 History: 1959 c. 511; Stats. 1959 s. 42.66; 1969 c. 158 s. 77; 1969 c. 276 s. 598 (1); Stats. 1969 s. 41.51.

41.52 History: 1959 c. 511; Stats. 1959 s. 42.67; 1967 c. 29 s. 5; 1969 c. 158 s. 78; Stats. 1969 s. 41.52.

41.53 History: 1959 c. 511; Stats. 1959 s. 42.68; 1969 c. 158 ss. 79, 107; Stats. 1969 s. 41.53.

CHAPTER 42.

Teachers Retirement.

42.20 History: 1921 c. 459 s. 3; 1921 c. 590 s. 111; Stats. 1921 s. 42.20; 1945 c. 20; 1947 c. 463, 614 s. 12; 1953 c. 61 s. 1, 2; 1953 c. 441; 1955 c. 231; 1957 c. 12 s. 6, 7; 1957 c. 423, 672; 1965 c. 250; 1967 c. 26; 1967 c. 29 s. 3; 1967 c. 92 s. 22; 1969 c. 158 ss. 50 to 55, 102, 103, 107; 1969 c. 276 s. 602 (1), (2).

On impairment of contracts see notes to sec. 12, art. I; on legislative power generally see notes to sec. 1, art. IV; and on extra compensation see notes to sec. 26, art. IV.

The secretary of the board of normal school regents, being charged with duties of educational as well as business supervision, is a "teacher" within the state retirement law. 11 Atty. Gen. 678.

A teacher from another state who is employed in the Wisconsin public schools only temporarily is subject to the state teachers' retirement act. 11 Atty. Gen. 789.

The secretary of the regents of the university is not eligible to membership in the state retirement system, for the reason that his duties pertain to business rather than to educational administration and hence are not included in teaching. 11 Atty. Gen. 811.

See note to 41.02, citing 45 Atty. Gen. 198.

42.21 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.21; 1929 c. 491 s. 3; 1935 c. 158; 1939 c. 352; 1951 c. 511 s. 23; 1953 c. 204; 1969 c. 154 ss. 151, 378; 1969 c. 158 s. 56.

42.22 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.31; 1929 c. 491 s. 3; 1951 c. 511 s. 24, 30; Stats. 1951 s. 42.22, 42.31; 1953 c. 204, 458, 540; 1955 c. 56; 1957 c. 97 s. 18; Stats. 1957 s. 42.22; 1965 c. 487; 1967 c. 26 s. 35; 1967 c. 29 s. 4; 1969 c. 154 ss. 152, 378; 1969 c. 158 ss. 57 to 61.

42.23 History: 1945 c. 274 s. 6; Stats. 1945 s. 42.23; 1947 c. 9 s. 31; 1951 c. 511 s. 25; 1953 c. 204; 1959 c. 659 s. 79; 1965 c. 433 s. 121; 1967 c. 26 s. 35; 1967 c. 291 s. 14; 1969 c. 158 s. 62.

time which they spent in the armed forces. 37 Atty. Gen. 29.

41.09 History: 1965 c. 251, 581; Stats. 1965 s. 66.9045; 1967 c. 312, 316, 355; 1969 c. 158 ss. 86, 107; Stats. 1969 s. 41.09.

41.10 History: 1943 c. 175; Stats. 1943 s. 66.90 (8); 1947 c. 99, 206, 362, 556; Stats. 1947 s. 66.905; 1951 c. 552, 722; 1953 c. 461, 467; 1953 c. 631 ss. 41, 42; 1955 c. 55, 486, 655; 1957 c. 60, 533; 1959 c. 271, 514; 1959 c. 659 s. 79; 1961 c. 281, 642; 1963 c. 20; 1965 c. 251, 581; 1969 c. 154 ss. 187, 187m, 378; 1969 c. 158 ss. 37, 86, 105, 107; 1969 c. 331 s. 29; Stats. 1969 s. 41.10.

41.11 History: 1943 c. 175; Stats. 1943 s. 66.90 (9), (10); 1947 c. 99, 206, 362, 556; Stats. 1947 s. 66.906; 1949 c. 502, 625; 1951 c. 475, 476, 519, 690; 1951 c. 722 ss. 6 to 11; 1951 c. 735 s. 8; 1953 c. 61, 246, 304; 1953 c. 461 ss. 10, 11, 12; 1953 c. 641; 1955 c. 41 ss. 3 to 6; 1955 c. 55, 486, 572; 1955 c. 655 ss. 6 to 9; 1957 c. 60, 83, 179, 381, 550, 668; 1959 c. 19, 251, 271, 538, 619; 1959 c. 631 ss. 11, 12; 1959 c. 632; 1961 c. 281, 302, 580; 1963 c. 20, 236, 303, 343, 360; 1965 c. 33, 172, 251; 1965 c. 433 s. 74; 1965 c. 471, 581; 1967 c. 199, 355; 1969 c. 142; 1969 c. 158 ss. 38, 39, 86, 104, 107; 1969 c. 331 s. 30; Stats. 1969 s. 41.11.

Editor's Note: 66.90 (9), Stats. 1945, was construed by the attorney general in opinions published in 34 Atty. Gen. 278 and 35 Atty. Gen. 21.

Committee Note, 1959: As to (4) (a): The 1957 legislature removed all limitation on the amount which could be earned by an annuitant over 65. Chapter 271 (279, S.) restored a limit of one-half the previous earnings. Experience has shown, however, that whereas a retired person before 65 can earn up to \$1,200, in some low-pay localities the half-pay limitation after 65 means that he can earn less after 65 than he could before. The director of the retirement system states that this was not the intent of the Retirement Study Committee and recommends the alternative limit proposed in this section. [Bill 699-S]

A state employe, on retiring, made application for an alternative retirement annuity which under 66.906 (3) (a) would be with a guaranty of 180 monthly payments and in the event of his death the "remainder" of such monthly payments to be "continued" to his designated beneficiary; the application was received and acknowledged by the board of trustees of the retirement fund, but the board did not act on the application and no annuity payments had been made to the retired employe at the time of his death. His widow, the designated beneficiary, was nevertheless entitled to the benefits of such annuity, as against a contention that the retired employe must have become an annuitant and that one or more payments must have been made to him in order that there be a "remainder" to be expended in "continued" payments to the beneficiary surviving him. Since all that remained to be done was formal approval of the application, mandamus was a proper remedy to compel the board to approve the application and pay benefits thereunder to the employe's widow and designated beneficiary, since the board's only duty was a ministerial one, and the provisions of 66.918 (3) that

actions of the board should be reviewable only by certiorari did not apply where the board had taken no action. State ex rel. Morse v. Christianson, 262 W 262, 55 NW (2d) 20.

41.12 History: 1957 c. 381 s. 5; Stats. 1957 s. 66.9065; 1959 c. 271; 1959 c. 659 s. 79; 1961 c. 281, 336; 1963 c. 20; 1965 c. 251; 1967 c. 43; 1969 c. 154 ss. 188, 190, 378; 1969 c. 158 ss. 40, 86, 105, 107; 1969 c. 276 s. 598 (1); Stats. 1969 s. 41.12.

41.13 History: 1943 c. 175; Stats. 1943 s. 66.90 (11), (12); 1945 c. 304; 1947 c. 99, 206, 362, 556; Stats. 1947 s. 66.907; 1949 c. 502, 564, 625; 1951 c. 722 ss. 12 to 14; 1953 c. 246, 396, 634, 640; 1955 c. 41, 262, 283, 655; 1957 c. 60, 83; 1957 c. 610 s. 28; 1959 c. 257, 271, 514, 641; 1961 c. 281; 1963 c. 20, 268, 274, 343; 1965 c. 251, 407, 581; 1967 c. 291 s. 14; 1967 c. 355; 1969 c. 158 ss. 41, 42, 86, 104, 107; 1969 c. 276 s. 584 (1) (b); Stats. 1969 s. 41.13.

41.14 History: 1943 c. 175; Stats. 1943 s. 66.90 (13); 1945 c. 304; 1947 c. 99, 362; Stats. 1947 s. 66.908; 1951 c. 552, 722; 1953 c. 246, 350; 1955 c. 41 ss. 9, 10, 11; 1955 c. 54, 55, 283, 655; 1957 c. 60, 83; 1959 c. 257, 271, 631; 1963 c. 20, 268; 1965 c. 33, 251, 407; 1967 c. 200, 355; 1969 c. 158 ss. 86, 107; Stats. 1969 s. 41.14.

41.15 History: 1943 c. 175; Stats. 1943 s. 66.90 (14); 1947 c. 206, 362, 556; Stats. 1947 s. 66.909; 1951 c. 552, 722, 734; 1953 c. 246; 1955 c. 39; 1957 c. 60, 83; 1959 c. 271; 1961 c. 281, 287; 1963 c. 20; 1965 c. 33 ss. 13 to 16, 21; 1965 c. 218; 1967 c. 200, 226; 1969 c. 158 ss. 86, 89, 107; 1969 c. 331 s. 31; Stats. 1969 s. 41.15.

41.16 History: 1943 c. 175; Stats. 1943 s. 66.90 (15); 1947 c. 99, 206, 362; Stats. 1947 s. 66.91; 1951 c. 722; 1953 c. 246; 1957 c. 60; 1961 c. 281; 1965 c. 33; 1969 c. 154 ss. 191, 378; 1969 c. 158 s. 86; Stats. 1969 s. 41.16.

41.17 History: 1943 c. 175; 1943 c. 553 s. 11b; Stats. 1943 s. 66.90 (18); 1945 c. 304; 1947 c. 206, 362; Stats. 1947 s. 66.913; 1955 c. 204 s. 1; 1957 c. 697 s. 12; 1969 c. 158 s. 91; Stats. 1969 s. 41.17.

41.18 History: 1943 c. 175; 1943 c. 553 s. 11c; Stats. 1943 s. 66.90 (19); 1947 c. 9, 99, 362; Stats. 1947 s. 66.914; 1953 c. 61; 1959 c. 659 s. 79; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 154 s. 377; 1969 c. 158 ss. 43, 91, 105, 107; 1969 c. 276 s. 598 (1); Stats. 1969 s. 41.18.

41.19 History: 1943 c. 175; Stats. 1943 s. 66.90 (20); 1947 c. 99, 206, 362, 556; Stats. 1947 s. 66.915; 1949 c. 502; 1951 c. 722 ss. 20, 21; 1953 c. 246; 1955 c. 41; 1955 c. 55 ss. 7, 8, 9; 1955 c. 655; 1959 c. 271, 514, 631; 1959 c. 659 s. 79; 1961 c. 281; 1965 c. 33, 251, 581; 1969 c. 154 ss. 193, 378; 1969 c. 158 ss. 44, 91, 107; Stats. 1969 s. 41.19.

41.20 History: 1943 c. 175; Stats. 1943 s. 66.90 (21); 1947 c. 99, 206, 362, 556; Stats. 1947 s. 66.916; 1949 c. 502; 1955 c. 55; 1957 c. 60; 1959 c. 271; 1961 c. 281; 1963 c. 268; 1965 c. 33, 251; 1967 c. 110; 1969 c. 154 ss. 194 to 196, 378; 1969 c. 158 ss. 91, 107; Stats. 1969 s. 41.20.

41.21 History: 1943 c. 175; Stats. 1943 s. 66.90 (22); 1947 c. 99, 206, 362; Stats. 1947 s. 66.917; 1953 c. 61, 221, 461; 1955 c. 486; 1959 c. 659 s. 79; 1961 c. 281; 1965 c. 433 s. 121; 1967 c.

42.24 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.24; 1929 c. 491 s. 3; 1945 c. 274 s. 7; 1951 c. 511 s. 26; Stats. 1951 s. 42.24; 1953 c. 204; 1967 c. 26 s. 35; 1969 c. 158 s. 63.

Under 42.24, Stats. 1927, the state treasurer is merely the custodian of the funds and securities belonging to the state retirement system, is charged with no responsibility concerning their investment or management and can incur no liability in making disposition thereof as directed by the annuity board. Attorney General ex rel. Blied v. Levitan, 195 W 561, 219 NW 97.

The state treasurer may not require an indemnity bond before paying out money on drafts issued by the annuity board to replace drafts which were stolen from a representative of the annuity board, payment on which has been stopped. 20 Atty. Gen. 884.

The state treasurer is merely the custodian of funds and securities of the annuity board and state retirement system and must make such disposition of funds and securities deposited with him as may be directed by the annuity board. 22 Atty. Gen. 365.

Safe-keeping receipts for U. S. treasury securities purchased by the state annuity and investment board but left on deposit with a federal reserve bank, which receipts are delivered to the state treasurer under 42.24 and 14.42 (17), Stats. 1947, should run to the state annuity and investment board and bear upon their face the name of the fund to which the securities described in the receipt belong. 36 Atty. Gen. 504.

42.241 History: 1957 c. 12 s. 8; 1957 c. 533 s. 4; Stats. 1957 s. 42.241; 1959 c. 4; 1959 c. 660 s. 39; 1965 c. 163, 250; 1965 c. 433 s. 121; 1967 c. 26 s. 35; 1967 c. 29 s. 3; 1967 c. 92; 1969 c. 158 ss. 64, 65, 66.

A teacher who should have but did not contribute to the state teachers retirement fund prior to her death may not be classed as a member of a combined group of said system for coverage under OASDI for self and surviving children. 51 Atty. Gen. 34.

42.242 History: 1957 c. 12 s. 8; 1957 c. 533; Stats. 1957 s. 42.242; 1959 c. 396, 668; 1961 c. 194, 195; 1963 c. 186, 357; 1965 c. 482; 1967 c. 26 s. 35; 1967 c. 29 s. 3; 1969 c. 158 ss. 103, 106; 1969 c. 276 s. 602 (1).

42.243 History: 1957 c. 423, 690; Stats. 1957 s. 42.243; 1959 c. 396; 1961 c. 150, 194, 422; 1963 c. 235, 357; 1965 c. 250, 482, 581; 1967 c. 26 s. 35; 1967 c. 43; 1969 c. 154; 1969 c. 158 ss. 67, 103; 1969 c. 276 ss. 598 (1), 602 (1).

42.244 History: 1965 c. 250, 407, 581; Stats. 1965 s. 42.244; 1969 c. 158 ss. 68, 106.

42.245 History: 1965 c. 242, 250, 407, 581; Stats. 1965 s. 42.245; 1967 c. 29 s. 3; 1969 c. 158 ss. 102, 103, 106; 1969 c. 276 s. 602 (1).

42.246 History: 1965 c. 250; Stats. 1965 s. 42.246; 1967 c. 29 s. 3; 1967 c. 280; 1969 c. 158 s. 106.

42.25 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.25; 1957 c. 12 s. 9; 1969 c. 158 s. 106.

42.27 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.27; 1945 c. 20; 1953 c. 61 s. 2; 1957 c. 12

s. 9; 1969 c. 158 ss. 103, 106; 1969 c. 276 s. 602 (1).

42.28 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.28; 1951 c. 637; 1957 c. 12 s. 9; 1969 c. 158 s. 106.

42.30 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.30; 1951 c. 511 s. 29; 1953 c. 204; 1967 c. 26 s. 35; 1969 c. 158 s. 69.

42.32 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.32; 1925 c. 368, 401; 1929 c. 307; 1933 c. 126; 1945 c. 274; 1951 c. 511 s. 31; 1953 c. 204.

In view of the fact that the annuity board has a duty to realize on securities owned by the system issued by institutions which have become insolvent, any limitations on the methods which the board in the exercise of sound business judgment may employ to such end should not be read into the law. Attorney General ex rel. Blied v. Levitan, 195 W 561, 219 NW 97.

The teachers' retirement fund could not be required to contribute to the cost of a study of retirement systems by a committee pursuant to a 1955 act. State Teachers' Retirement Board v. Giessel, 12 W (2d) 5, 106 NW (2d) 301.

42.33 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.33; 1923 c. 416 s. 5; 1945 c. 274; 1951 c. 511 s. 47; 1953 c. 204; 1965 c. 250; 1967 c. 26 s. 35.

When the net interest yield on the annuity reserve fund and contingent fund of the state retirement system is less than the rate at which annuities have been granted and hence reserves are insufficient, the annuity board may create a supplemental reserve in the annuity reserve fund out of sums transferred thereto from the reserve for contingencies, and may also create a supplemental reserve in the contingent fund by requisitioning a sum in addition to the normal requirement so that reserves in said funds may be built up to the point where they can be valued at net interest rate which they are actually earning. 32 Atty. Gen. 295.

42.34 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.34; 1945 c. 274; 1951 c. 511 s. 32; 1953 c. 204; 1965 c. 250; 1967 c. 26 s. 35.

If annuity rates are changed effective July 1, 1962, and application is made prior to said date for an annuity to begin on or after such date, such annuity may be granted at the old or new rate at the option of the applicant. 51 Atty. Gen. 66.

42.35 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.35; 1923 c. 416 s. 3, 5; 1945 c. 20; 1951 c. 511 s. 33; 1951 c. 637; 1953 c. 61 s. 2; 1953 c. 204; 1955 c. 127; 1963 c. 357; 1969 c. 158 s. 103; 1969 c. 276 s. 602 (1); 1969 c. 331.

A teacher who had been teaching for several years in Wisconsin made application in July, 1912, to come under the provisions of the state teachers retirement system. Her application was accepted and thereafter she taught in North Dakota until 1922. When she resumed teaching in Wisconsin she was restored to membership in the fund in Class A. 18 Atty. Gen. 471.

42.37 History: 1921 c. 459 s. 3; Stats. 1921

s. 42.37; 1951 c. 511 s. 35, 36; 1953 c. 204; 1965 c. 247; 1967 c. 26 s. 35; 1969 c. 158 s. 70.

42.38 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.38; 1951 c. 511 s. 37; 1953 c. 204; 1967 c. 26 s. 35.

42.39 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.39; 1929 c. 491 s. 3; 1951 c. 511 s. 38; 1953 c. 204; 1967 c. 26.

42.40 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.40; 1945 c. 274; 1947 c. 463; 1957 c. 12 s. 10; 1959 c. 4, 396; 1965 c. 250, 482, 581; 1967 c. 29 s. 3; 1967 c. 43; 1969 c. 154 ss. 153m, 378; 1969 c. 158 ss. 71, 102, 103, 106; 1969 c. 245; 1969 c. 276 s. 602 (1).

42.41 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.41; 1923 c. 416 s. 1; 1945 c. 274; 1947 c. 463; 1951 c. 511 s. 39, 47; 1953 c. 204; 1957 c. 12 s. 10; 1957 c. 355; 1961 c. 172; 1965 c. 250; 1967 c. 26 s. 35; 1969 c. 158 s. 72.

42.42 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.42; 1923 c. 416 s. 2; 1925 c. 53; 1947 c. 463; 1951 c. 511 s. 40, 47; 1953 c. 204; 1957 c. 12 s. 11; 1967 c. 26 s. 35.

Under 42.42, Stats. 1921, prohibiting deductions from salary of teachers without their consent where their contracts antedate the passage of the state retirement law, mere failure for 4 months to protest against deductions made from salary is not consent. 11 Atty. Gen. 108.

Neither public officers nor civil service employes are under "contract" in such a sense as to be within the exemption contained in the state teachers' retirement law with reference to contracts made prior to its passage. 11 Atty. Gen. 681.

Teachers in the Stout institute, employed under the terms of certain resolutions, were employed under a contract subsequent to July 7, 1921, and are not exempt from deductions made without their consent. 11 Atty. Gen. 926.

42.43 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.43; 1951 c. 511 s. 47; 1953 c. 204; 1961 c. 172; 1967 c. 26 s. 35.

42.44 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.44.

42.45 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.45; 1943 c. 404; 1947 c. 463; 1951 c. 556, 604; 1953 c. 61, 157, 204; 1957 c. 12 s. 12; 1957 c. 636; 1959 c. 4, 396; 1961 c. 660; 1965 c. 250, 407; 1967 c. 26 s. 35; 1967 c. 29 s. 3; 1969 c. 158 s. 103; 1969 c. 276 s. 602 (1).

See note to 42.49, citing 43 Atty. Gen. 343.

42.46 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.46; 1947 c. 9 s. 31; 1949 c. 262; 1951 c. 511 s. 41; 1951 c. 734; 1953 c. 204; 1959 c. 659 s. 79; 1965 c. 250, 564; 1967 c. 26 s. 35; 1967 c. 43; 1969 c. 154; 1969 c. 158 ss. 73, 102, 106; 1969 c. 501.

Upon the payment by an employer of teacher's delinquent required deposits with the state teachers' retirement board, the state should credit the teacher with such state deposits as would have been made on the teacher's account had the required deposits been made regularly. 19 Atty. Gen. 131.

42.47 History: 1921 c. 459 s. 3; Stats. 1921

s. 42.47; 1945 c. 274; 1951 c. 511 s. 47; 1953 c. 204; 1967 c. 26 s. 35.

42.475 History: 1953 c. 157; Stats. 1953 c. 42.475; 1957 c. 12 s. 13; 1959 c. 396; 1965 c. 250, 581.

42.48 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.48; 1947 c. 9 s. 31; 1949 c. 197; 1951 c. 511 s. 47; 1953 c. 204; 1959 c. 228 s. 66; 1965 c. 250; 1967 c. 26 s. 35.

42.49 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.49; 1923 c. 416 s. 5; 1937 c. 98; 1943 c. 404; 1945 c. 274; 1947 c. 463; 1949 c. 131, 558, 559; 1951 c. 511 s. 42, 47; 1951 c. 553, 555, 556, 633; 1951 c. 735 s. 5, 6; 1953 c. 61 s. 27; 1953 c. 204, 478; 1955 c. 324, 435; 1957 c. 12 s. 14; 1957 c. 150, 376, 692; 1959 c. 120, 396, 667; 1961 c. 168, 178, 411, 622; 1963 c. 357; 1965 c. 164, 249, 250, 324, 482; 1967 c. 26 s. 35; 1967 c. 29 s. 3; 1967 c. 92 ss. 13, 22; 1967 c. 280; 1967 c. 291 s. 14; 1969 c. 158 ss. 74, 102, 103, 106; 1969 c. 276 s. 602 (1).

Benefits payable under the state teachers' retirement law, including the additional annuity payments provided for previously retired teachers, are payable from public funds, rather than from private funds. State ex rel. Thomson v. Giessel, 262 W 51, 53 NW (2d) 726.

A teacher who has not attained the age of 50, who has made required deposits during each 5 fiscal years immediately preceding the time he became incapacitated and thereafter has furnished due proof thereof, is entitled to teachers' pension. 18 Atty. Gen. 486.

For discussion of the question whether war service credited under 42.45 (3) and (4) can be counted in the calculation of annuities under 42.49 (3c) and (3m), Stats. 1953, see 43 Atty. Gen. 343.

A member of the state teachers retirement system must have been engaged in teaching after July 27, 1955, in order to retire under the provisions of 42.49 (8), Stats. 1957. 46 Atty. Gen. 185.

For discussion of the legal situation created when a member dies prior to action by the state teachers retirement board on an application for annuity payments see 52 Atty. Gen. 286.

Benefits provided by 42.49 (4), (6) and (7), Stats. 1965, are not available to a member of the combined group of the teachers retirement fund who elected to become a member of the formula group. 55 Atty. Gen. 251.

42.50 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.50; 1943 c. 404; 1945 c. 274; 1951 c. 511; 1953 c. 204; 1959 c. 396; 1965 c. 250, 482, 581; 1967 c. 26 s. 35; 1967 c. 29 s. 4; 1969 c. 158 ss. 102, 106.

On impairment of contracts see notes to sec. 12, art. I.

A stipulation, and corresponding provision in a divorce judgment, for division of property and release of the husband from all claims of the wife, did not bar the divorced wife from claiming, as the designated beneficiary, the death benefit payable from the teachers' retirement fund on the death of the husband, since the wife was not thereby claiming any "property" which the husband had or which was a part of his estate on his death, and the stipulation for division of prop-

erty and release of claims, not mentioning the retirement fund or the benefits payable under ch. 42, did not cover such death benefit, since the wife then, and until the husband's death, had neither "property" nor an interest or claim therein but only a mere "expectancy" which could have been defeated by the husband had he seen fit to change the beneficiary or have the death benefit made payable to his estate, which he was not persuaded from doing by any conduct of the wife estopping her from claiming as the designated beneficiary. *Wolf v. Jebe*, 242 W 650, 9 NW (2d) 124.

When a member of the state teachers' retirement system dies, not having directed how payment of the death benefit shall be made, such benefit is payable in a single sum to his personal representative if he has not designated a beneficiary, or to such beneficiary if he has named one. 42.50 (2), Stats. 1921, does not apply in such cases, and the retirement board has no discretion to direct payment of the benefit otherwise than as indicated. 11 Atty. Gen. 746.

The board need not recognize a partial assignment of the death benefit. 22 Atty. Gen. 177.

Where a member of the retirement system properly designates a beneficiary pursuant to 42.50, Stats. 1941, but does not direct how payment of death benefit shall be made, the retirement board having jurisdiction under 42.48 may make payment of the death benefit to the beneficiary in any one of the ways enumerated in 42.50 (2) agreed upon by said board and beneficiary. 30 Atty. Gen. 226.

42.51 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.51; 1923 c. 416 s. 4; 1929 c. 491 s. 3; 1939 c. 117; 1945 c. 112; 1949 c. 262; 1951 c. 511 s. 43, 47; 1953 c. 61 s. 28; 1953 c. 204; 1955 c. 252; 1957 c. 168; 1961 c. 172; 1967 c. 26 s. 35; 1969 c. 158 ss. 102, 103, 106; 1969 c. 276 s. 602 (1).

On extra compensation see notes to sec. 26, art. IV.

Under 42.51 (1) and (2), Stats. 1925, there may be no increase in death benefits on account of prior service. 14 Atty. Gen. 242.

42.52 History: 1921 c. 459 s. 3; Stats. 1921 s. 42.52; 1953 c. 204; 1959 c. 211; 1963 c. 267; 1965 c. 433, 605; 1967 c. 26, 280; 1967 c. 291 s. 14; 1969 c. 154 ss. 155, 378; 1969 c. 158 ss. 75, 106; 1969 c. 331 ss. 35, 62.

42.53 History: 1921 c. 459 s. 3; 1929 c. 491 s. 3; Stats. 1921 s. 42.53; 1951 c. 511 s. 44; 1953 c. 204, 441; 1967 c. 26 s. 35; 1969 c. 158 ss. 102, 106.

42.531 History: 1957 c. 355; Stats. 1957 s. 42.531.

42.54 History: 1921 c. 459 s. 3; 1921 c. 590 s. 113; Stats. 1921 s. 42.54; 1949 c. 262; 1969 c. 158 ss. 102, 106.

42.70 History: 1969 c. 154 ss. 291, 378; 1969 c. 158 s. 80; 1969 c. 392 s. 24; Stats. 1969 s. 42.70.

Editor's Note: For provisions of the statutes, governing retirement of Milwaukee teachers prior to the enactment of ch. 158, Laws 1969 see 119.24, Stats. 1967 and Wis. Annotations, 1960 under 119.24. 119.24 was replaced by ss. 42.70 to 42.92.

42.71 History: 1969 c. 154 ss. 293 to 295, 378; 1969 c. 158 s. 80; 1969 c. 501; Stats. 1969 s. 42.71.

42.72 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.72.

The absence of the term "repeal and recreate" in the enacting clause of the 1957 amendment to the retirement system law indicates that the legislature did not intend to repeal and recreate the retirement system but intended only to create a new plan within the system. *Di Dio v. Milwaukee P. S. Teachers' A. & R. Fund*, 38 W (2d) 261, 156 NW (2d) 418.

42.73 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.73.

42.74 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.74.

42.75 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.75.

42.76 History: 1969 c. 154 ss. 292, 378; 1969 c. 158 s. 80; Stats. 1969 s. 42.76.

42.77 History: 1969 c. 158 s. 80; 1969 c. 392; Stats. 1969 s. 42.77.

42.78 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.78.

42.79 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.79.

42.80 History: 1969 c. 158 s. 80; 1969 c. 220 s. 2; 1969 c. 392 s. 52; Stats. 1969 s. 42.80.

42.81 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.81.

The compulsory retirement provision of 42.55 (12) (k), Stats. 1937, means that every teacher in the public schools of a city of the first class should be retired at age 70, no matter when such teacher came under the statute. *Morgan v. Potter*, 238 W 246, 298 NW 763.

42.82 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.82.

42.83 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.83.

Ch. 299, Laws 1931, amending 42.55 (12) (c) and creating (12) (j), applies only to teachers who were then in actual service, who thereafter on retirement would be entitled to the benefits of the increase by reason of the amendment, in view, among other things, of sec. 7, ch. 476, Laws 1931, providing that the new matter contained in ch. 299, Laws 1931, shall apply only to annuitants the first monthly payments of whose annuities are made after the effective date of ch. 299. *State ex rel. Teweles v. Trustees*, 235 W 385, 291 NW 775.

42.84 History: 1969 c. 158 s. 80; 1969 c. 392; Stats. 1969 s. 42.84.

42.85 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.85.

42.86 History: 1969 c. 158 s. 80; 1969 c. 331; Stats. 1969 s. 42.86.

42.87 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.87.

42.89 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.89.

42.90 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.90.

Editor's Note: That part of 42.55, Stats. 1931, relating to annexation of school district territory was construed by the attorney general in an opinion published in 20 Atty. Gen. 781.

42.91 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.91.

42.92 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.92.

42.93 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.93.

Editor's Note: The predecessor provision in the 1967 statutes was 119.25.

On extra compensation and salary changes see notes to sec. 26, art. IV.

42.94 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.94.

Editor's Note: The predecessor provision in the 1967 statutes was 119.26.

42.95 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.95.

Editor's Note: The predecessor provision in the 1967 statutes was 119.265.

42.96 History: 1969 c. 158 s. 80; Stats. 1969 s. 42.96.

Editor's Note: The predecessor provision in the 1967 statutes was 119.27.

CHAPTER 43.

Libraries, Museums, Civic and Community Centres, and Special Uses of Municipal Buildings.

43.01 History: 1851 c. 352 s. 1, 2; R. S. 1858 c. 26; 1876 c. 116; R. S. 1878 s. 367; Stats. 1898 s. 367; 1917 c. 453 s. 5; Stats. 1917 s. 43.01; 1957 c. 528.

43.015 History: 1923 c. 400 s. 2; Stats. 1923 s. 43.015; 1949 c. 643 s. 24m.

43.02 History: 1851 c. 352 s. 5; R. S. 1858 c. 10 s. 9; R. S. 1878 s. 368; Stats. 1898 s. 368; 1907 c. 466; 1913 c. 772 s. 112; 1917 c. 453 s. 5; Stats. 1917 s. 43.02; 1919 c. 93 s. 18; 1919 c. 362 s. 19; 1931 c. 470 s. 2; 1951 c. 319 s. 237; 1959 c. 659 s. 79.

43.03 History: 1851 c. 352 s. 3, 11; 1858 c. 135 s. 3; R. S. 1858 c. 26 s. 3, 4, 7; 1873 c. 50; R. S. 1878 s. 369; Stats. 1898 s. 369; 1917 c. 453 s. 5; Stats. 1917 s. 43.03; 1967 c. 29 s. 1.

43.04 History: 1858 c. 135 s. 2; 1871 c. 60 s. 1; 1878 c. 258; R. S. 1878 s. 370; Stats. 1898 s. 370; 1917 c. 453 s. 5; Stats. 1917 s. 43.04.

43.05 History: 1851 c. 352 s. 4, 10; 1852 c. 381 s. 1; 1855 c. 74 s. 2; 1858 c. 135 s. 1, 2; R. S. 1858 c. 10 s. 9; R. S. 1858 c. 26 s. 4, 6; 1877 c. 173 s. 1, 2; 1877 c. 177 s. 2; R. S. 1878 s. 372; Stats. 1898 s. 372; 1907 c. 466; 1913 c. 772 s. 112; 1917 c. 453 s. 5, 8; Stats. 1917 s. 43.05;

1931 c. 45 s. 1; 1947 c. 9 s. 31; 1959 c. 659 s. 77, 79; 1967 c. 29 s. 1.

43.06 History: R. S. 1849 c. 9 s. 16; R. S. 1858 c. 10 s. 24; 1877 c. 173 s. 4; R. S. 1878 s. 373; Stats. 1898 s. 373; 1917 c. 453 s. 5; Stats. 1917 s. 43.06; 1949 c. 52.

43.09 History: 1965 c. 150; Stats. 1965 s. 43.09; 1969 c. 276.

43.10 History: 1965 c. 150; Stats. 1965 s. 43.10; 1969 c. 154; 1969 c. 276 ss. 279, 280, 589 (2) (b).

43.11 History: 1965 c. 150; Stats. 1965 s. 43.11; 1967 c. 26 ss. 38, 93; 1969 c. 276.

43.12 History: 1921 c. 336; Stats. 1921 s. 43.165; 1945 c. 150; 1951 c. 204; 1965 c. 18 s. 9; 1965 c. 150 ss. 10, 23; 1965 c. 625; Stats. 1965 s. 43.12; 1969 c. 276 ss. 283, 589 (4).

43.13 History: 1921 c. 398 s. 3; 1921 c. 452 s. 22; Stats. 1921 s. 43.34; 1943 c. 275 s. 17; 1965 c. 18 s. 10; 1965 c. 150 ss. 14, 23; Stats. 1965 s. 43.13; 1969 c. 276.

43.14 History: 1901 c. 168 s. 1; 1903 c. 238 s. 1; Supl. 1906 s. 373e; 1917 c. 453 s. 5; Stats. 1917 s. 43.14; 1945 c. 20; 1953 c. 61 s. 2; 1959 c. 228 s. 64; 1965 c. 18, 150, 455, 625; 1969 c. 276.

43.17 History: 1921 c. 452 s. 4; Stats. 1921 s. 43.17; 1945 c. 334, 367; 1961 c. 213; 1965 c. 18 ss. 10, 11; 1965 c. 19, 150, 189.

43.19 History: 1921 c. 452 s. 7; Stats. 1921 s. 43.19; 1945 c. 367; 1947 c. 9 s. 31; 1949 c. 197, 516; 1953 c. 90 s. 180; 1955 c. 10; 1959 c. 659 s. 79; 1963 c. 565; 1965 c. 189.

43.22 History: 1921 c. 452 s. 10; Stats. 1921 s. 43.22; 1937 c. 342; 1957 c. 355; 1965 c. 19, 189; 1967 c. 92 s. 22; 1969 c. 158 s. 106.

43.23 History: 1921 c. 452 s. 11; Stats. 1921 s. 43.23; 1965 c. 19; 1967 c. 26.

43.25 History: 1921 c. 398 s. 1, 2; 1921 c. 452 s. 13; 1921 c. 590 s. 50, 51; Stats. 1921 s. 43.25; 1935 c. 90; 1949 c. 316; 1967 c. 29 s. 5.

Where a municipality fails to make a tax levy for the support of its public library it may appropriate the necessary amount from its general funds. 1904 Atty. Gen. 83.

Two counties may co-operate under 66.30 and 43.25, Stats. 1951, to establish, maintain, and prorate the costs of public library services on a joint basis. 41 Atty. Gen. 335.

43.255 History: 1957 c. 82; Stats. 1957 s. 43.255; 1965 c. 18 s. 10; 1965 c. 150; 1969 c. 276.

43.26 History: 1921 c. 398 s. 3; 1921 c. 452 s. 14; Stats. 1921 s. 43.26; 1941 c. 52; 1943 c. 227; 1953 c. 230; 1963 c. 128; 1965 c. 557; 1967 c. 26.

The library board of a city, having power under 43.26 (1), Stats. 1949, to administer the city library, but having no authority to establish tenure rights for employes hired by it pursuant to 43.27 (4), has no power to establish rules governing tenure; and, the board having power to discharge without cause, even though it be done unfairly and unreasonably, the courts have no power to interfere with the action of such a board discharging a librarian.